

REMARKS

Claims 1, 2, 4-6 and 8 were examined in the Office Action mailed July 23, 2008.

Claims 1-2 and 4-8 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,553,296 to Breed *et al.* ("Breed '296"), in view of U.S. Patent No. 6,778,672 to Breed *et al.* ("Breed '672") and further in view of U.S. Patent No. 5,188,445 to Haun *et al.*

The present invention is directed to an improved vehicle acoustic system, in which noise cancellation technology is provided with the capability to selectively transfer desired exterior sounds (such as emergency vehicle sirens) into a vehicle so they may be heard (prior art noise cancellation systems having been known to cancel all such exterior noises, and thus depriving a driver of potentially critical external information, such as the approach of an ambulance).

1. The Interpretation of "Acoustic System" Is Overbroad. In the pending Office Action, a new ground of rejection is entered, in which it is asserted that the "acoustic system" of the vehicle can include the entire body structure of the vehicle, including Haun's wall between the engine and passenger compartments, *i.e.*, that while Haun expressly states that that firewall helps keep noise *out* of the passenger compartment, this reference's firewall "pipes in" desired sounds into the vehicle. July 23, 2008 Office Action at 3.

As first matter in the *Phillips* decision the Federal Circuit reiterated that claims must be "given their broadest reasonable interpretation *consistent with the specification*," and as noted in the MPEP this interpretation "must also be

consistent with the interpretation that those skilled in the art would reach.”

MPEP § 2111 (quoting *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (emphasis added)).

The Specification of the present invention could hardly be clearer that the recited “acoustic system” is vehicle’s audio equipment, not its body structure:

[0011] The acoustic system comprises all the acoustic reception and transmission components in the vehicle. Transmission components for acoustic playback include, for example, the *loudspeaker* of the car radio. Reception components for acoustic pickup include, for example, the *microphones* of the car telephone or the voice control system.

Original Specification ¶ [0011] (emphasis added). The Specification further communicates to those of ordinary skill in the art that the present invention does *not* contemplate using a vehicle body panel such as a firewall as either a reception or transmission component. For example, in discussing the background of the present invention, all of the references to the prior art are to electronic vehicle audio components, including car radios (¶¶ [0004]-[0005]) and an electronic noise reduction system (¶ [0006]), *i.e.*, the vehicle’s electronic audio reception and transmission components. Conversely, there is not a single mention in the present Specification of *any* vehicle body structural element being used as either an “acoustic reception” or an “acoustic transmission” component.

Thus, where the Applicants have expressly defined “acoustic system” in a manner those of ordinary skill in the art would recognize as not referring to vehicle body structure, but instead to audio transmission and reception components such as speakers and microphones, the assertion that Haun’s engine compartment firewall is part of an “acoustic system” is an unreasonably

overboard interpretation of the language of the pending claims. Accordingly, reconsideration and withdrawal of the rejections based on this overbroad interpretation is respectfully requested.

2. Haun Does Not Teach The Element Missing From Breed. As a separate grounds for allowance over the Haun reference, the Applicants respectfully submit that Haun simply does not teach the function for which it is asserted.

Fundamentally, the Examiner is citing an inert body structure panel which *blocks* the transmission of unwanted sounds, as teaching a way to *selectively* transfer *desired* sounds into the vehicle¹ – something that an inert sheet metal panel simply has no means to accomplish. Because Haun does not teach or suggest the recited transfer of sounds from the exterior of a vehicle to the interior, no combination of the Breed and Haun references would result in the invention recited in claims 1-2, 4-6 and 8.

An equally fundamental flaw in the reliance on Haun is the fact that the Examiner has not (and cannot) explain how the Haun reference modifies the Breed references. As noted above, the present invention is directed to selective transmission of exterior sounds into the vehicle via a noise-cancelling acoustic system. Plainly, the mere co-location of the Haun engine compartment firewall

¹ The *selective* transfer of exterior sounds to the interior is required by the language of claim 1, which recites that the acoustic system is set such that the system “is optimized for the occupant,” *i.e.*, the mere muffled transmission of sounds through the engine compartment firewall generally throughout the interior compartment as asserted by the Examiner cannot reasonably be interpreted as providing the recited occupant-centric noise cancellation system optimization –rather, the firewall simply introduces additional *general* background noise which only adds to the noise cancellation system’s noise reduction burden.

in a vehicle with Breed's noise cancellation system does not provide the recited *selective* sound transmission of claims 1 and 5 in which the exterior sound passes through the components of the vehicle's acoustic system.

In view of the foregoing, reconsideration and withdrawal of the pending § 103(a) rejection based on the combination of the Breed and Haun references is respectfully requested.

3. Claim Amendments. Consistent with the above comments regarding selective exterior-to-interior sound transfer, and solely for the purposes of clarity, the Applicants have amended claims 1 and 5 to recite that "sounds from the exterior of the vehicle can be piped in from the exterior by the control unit through the acoustic system of the vehicle into the interior of the vehicle as part of the active noise suppression." In addition, new dependent claims 9 and 10 have been added to recite use of particular interior sound transmission component, speakers.

CONCLUSION

The Applicants submit that claims 1-2, 4-6 and 8 are in condition for allowance. Early and favorable consideration and issuance of a Notice of Allowance for these claims is respectfully requested.

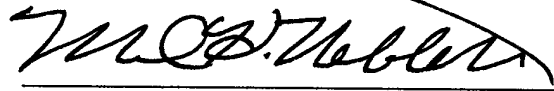
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and

please charge any deficiency in fees or credit any overpayments to Deposit
Account No. 05-1323 (Docket # 080437.53140US).

Respectfully submitted,

November 4, 2008

A handwritten signature in black ink, appearing to read "Mark H. Neblett", written over a horizontal line.

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